IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO.51 OF 2003

Mohinibai S. Jain .. Appellant

v/s.

Assistant Commissioner of Income
Tax, Circle-5(2), Pune. .. Respondent

Mr.A.K.Jesani i/by Mr.P.Y.Vaidya for appellant.

Mr.R.V.Desai, senior counsel with Mr.Vijay Kantharia i/by Mr.P.Kapur for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 17th September, 2004

P.C.

Heard Mr.A.K.Jesani, the learned counsel for the appellant and perused the order of the Tribunal.

2. The Tribunal in its order observed thus-

> "9. In the case in hand, during the assessment proceedings, the assessee is found to have introduced her income under the garb of NRE gift to the extent of Rs.3.00 lakhs in her original return and when investigation was carried out and assessee was summoned she found that she is unable to substantiate the claim of NRE gift because the same was bogus as donor clearly denied about having made any gift, she filed a revised return declaring amount of gift as income from undisclosed sources. So this way, she concealed the income by furnishing inaccurate particulars in her original return of income. The submission that revised return filed was, according to the assessee, voluntary and faithful disclosures cannot be accepted, because mere filing of the revised return is not enough. The background and the circumstances in which such return is filed

> hold the key to the answer whether such return is bona fide. What the revised return in the present case meant was to pre-empt any action on the part of the Department and was just to immediately close the proceedings and to avoid further investigation in the matter. Therefore, in my considered view, penalty in this case is exigible and the same has rightly been imposed by the A.O. and confirmed by the learned CIT(A)."

3. The consideration of the matter by the Tribunal does not suffer from any illegal infirmity. No substantial question of law arises. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)